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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2010-27

12 MARY KATHRYN DAVIS
13 9459 Fairgrove Lane, Apt. 104
14 San Diego, CA 92129

A C C U S A T I O N

15 Registered Nurse License No. 553109

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Heidi Goodman, Assistant Executive Officer (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about March 11, 1999, the Board of Registered Nursing issued Registered
23 Nurse License Number 553109 to Mary Kathryn Davis (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on September 30, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

". . . .

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

6. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

1 **DRUGS**

2 7. "Seroquel," a brand name for **Quetiapine Fumarate** is a dangerous drug pursuant to
3 Code section 4022. It is approved by the FDA to treat acute depressive episodes in bipolar
4 disorder, acute manic or mixed episodes in bipolar disorder, and schizophrenia.

5 8. "Wellbutrin SR," a brand name for **Bupropion Hydrochloride**, is a dangerous drug
6 pursuant to Code section 4022. It is approved by the FDA to treat depression.

7 9. "Heroin" is a Schedule I controlled substance as designated by Health and Safety
8 Code section 11054(c)(11), and is a dangerous drug pursuant to Code section 4022.

9 10. "Percocet" and "Oxycontin" brand names for **Oxycodone**, are Schedule II
10 controlled substances, as designated by Health and Safety Code section 11055, subdivision
11 (b)(1)(N), and are dangerous drugs pursuant to Code section 4022.

12 11. "Methadone" is a Schedule II controlled substance as designated by Health and
13 Safety Code section 11055(c)(14), and is a dangerous drug pursuant to Business and Professions
14 Code section 4022. Methadone is used for treatment of narcotic addiction in detoxification or
15 maintenance programs.

16 **COST RECOVERY**

17 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Use of Dangerous Drugs)**

23 13. Respondent is subject to disciplinary action under section Code section 2761,
24 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
25 subdivision (b), in that Respondent used dangerous drugs or alcoholic beverages, to an extent or
26 in a manner dangerous or injurious to herself or others or to the extent that such use impairs her
27 ability to conduct with safety to the public the practice authorized by her license. The
28 circumstances are as follows:

1 14. On or about May 14, 2007, while Respondent was working as a registered nurse at
2 Palomar Pomerado Hospital Intensive Care Unit (ICU), co-workers noticed her speech was thick,
3 her eyes were rolling, and she was falling asleep at her computer. Respondent charted
4 administering Heparin, doing patient teaching to a vented patient, and giving another patient
5 insulin while in this condition. Respondent also made unintelligible entries in patient records
6 while in this condition. Respondent admitted to the hospital staff that she had taken prescribed
7 medication before beginning her shift. Respondent's blood tested positive for Methadone.

8 15. On January 9, 2009, Respondent admitted to the Board's investigator that she
9 obtained some sleeping pills in Mexico and took a couple of tablets before leaving for work the
10 evening of May 14, 2007. She did not dispute the description of her demeanor and behavior as
11 reported by her supervisors. Respondent examined the patient records that her supervisors
12 reported that she had prepared on May 14, 2007. Respondent identified her writing on one of the
13 three documents. Respondent admitted that some of the entries on the other documents could be
14 hers, but she was not absolutely certain.

15 16. On or about June 25, 2007, Respondent voluntarily entered the Board's diversion
16 program. Respondent admitted to a long history of opiate use and dependence. She reported that
17 for the past four years, she used various oral opiates, primarily Percocet. At the time of intake,
18 Respondent admitted that she had used illegal drugs or abused prescribed medication on each of
19 the prior thirty days. She also admitted that she had used each of the following substances during
20 the prior 12 months: Seroquel; Wellbutrin SR; Heroin; Percocet; Oxycodone; and Methadone.

21 17. While in diversion, Respondent tested positive for alcohol in August 2007 and
22 December 2007. At her February 2, 2008 DEC meeting, Respondent exhibited slowed and
23 slurred speech. At that time, the DEC mandated that Respondent enter a residential treatment
24 center within three days. Respondent indicated that she could not go to a residential treatment
25 center. Respondent is a single parent with two minor children. On February 2, 2008, Respondent
26 was terminated from the Board's diversion program for non-compliance, and was deemed a
27 public risk.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Making Grossly Incorrect or Unintelligible**

3 **Entries in Hospital and/or Patient Records)**

4 18. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
5 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (e), for
6 making grossly incorrect or grossly inconsistent entries in hospital and/or patient records as set
7 forth in paragraphs 14 and 15 above, which are incorporated here.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 553109 issued to Mary
12 Kathryn Davis.

13 2. Ordering Mary Kathryn Davis to pay the Board of Registered Nursing the reasonable
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions
15 Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 7/24/09

18 Heidi Goodman
19 Heidi Goodman
20 Assistant Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant
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